IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6946 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

CHELABHAI MOTAMBHAI PATEL

Appearance:

MR HS MUNSHAW for Petitioner

MR GK RATHOD for Respondent No. 1

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 10/05/2000

ORAL JUDGEMENT :

The petitioner corporation has challenged the judgement and award passed in Reference (LCA) No.101/96, by the Labour Court, Ahmedabad dated 3.3.1999. It is the case of the petitioner corporation that the default card of the respondent workman consisting of as many as 35 items was produced before the Labour court, which is at Annexure 'C' to the petition. Item nos.15 and 30 of this default card show that twice the respondent workman was dismissed from service. However, the department, with a

view to give him an opportunity to see that the penalty of economic death is not imposed, dealt with the petitioner leniently. This time, when the respondent workman was found to have indulged in a similar type of irregularity, the penalty of dismissal is imposed. But as the Labour Court has interfered with the same the present petition is filed.

2. The Labour Court has substituted the penalty of dismissal with stoppage of three increments with future effect. It is also stated by Mr.Munshaw that after the award dated 3.3.1999, which is under challenge, the respondent workman has retired on 30.9.1999. So the penalty, which is substituted by the Labour Court becomes not only insufficient but also of no consequence. In the facts and circumstances of the case and more particularly looking to the default card of the respondent workman, it is deemed fit that he shall be imposed with the penalty which does not remain to be a paper penalty but does have an impact which is felt. Reduction of pay by five stages with permanent effect will be the proper remedy and hence the same is ordered to be imposed.

3. Subject to the aforesaid modification of the judgement and award of the Labour Court, the petition is allowed. Rule is made absolute to the aforesaid extent only with no order as to costs.

4. The petitioner corporation shall implement the judgement and award of the Labour Court subject to the aforesaid modification latest by 15.7.2000.

10th May 2000 (Ravi R. Tripathi, J.)
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